

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Wang

Application No.: 10/655,861

Confirmation No.: 7250

Filed: September 5, 2003

Art Unit: 1644

For: METHOD OF TREATMENT OF ASTHMA
USING ANTIBODIES TO COMPLEMENT
COMPONENT C5

Examiner: P. Gambel

DECLARATION UNDER 37 CFR § 1.131

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, YI WANG, hereby declare and state as follows:

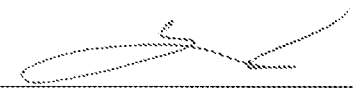
1. I am the named inventor of the patent application identified above, which teaches and claims, among other things, methods and compositions for preventing or treating a pulmonary condition in a subject.
2. I understand that the Examiner has rejected the pending claims in view of Krause et al. (U.S. Patent Application Publication No. 2004/0014782, published on January 22, 2004). The Krause et al. application was filed on March 27, 2003, and claims priority to U.S. Provisional Application No. 60/368,925, filed March 29, 2002. Accordingly, it is my understanding that the effective filing date of the Krause et al. reference is March 29, 2002.
3. Prior to March 29, 2002, I had conceived of the invention as described and claimed in the subject application in this country. In support of this, I attach as Exhibits A and B documents prepared before March 29, 2002, which demonstrate that I had designed and prepared a mouse model to evaluate the efficacy of an anti-C5 antibody on asthma, a pulmonary condition.
4. Exhibit A is a copy of my laboratory notebook page (Notebook #1060, page 45). This page was dated December 20, 2001, and also read and understood by my colleagues on at least two

separate occasions, one on March 12, 2002. This page detailed the experimental plans for evaluating the efficacy of anti-C5 antibody BB5.1 using an asthma mouse model.

5. Exhibit B is a copy of my laboratory notebook pages (Notebook #1060, pages 46 and 47). These pages were also read and understood by my colleagues on at least two separate occasions, one on March 14, 2002. These pages recorded the planned timeline for each mouse included in the study following the protocol detailed in the page shown as Exhibit A. The timeline starts with the date of birth of the mouse, date of sensitization, dates of air challenges, followed by various treatment (with the anti-C5 antibody or controls) dates. These laboratory notebook pages clearly demonstrate that I had conceived of the invention of using anti-C5 antibody in treating a pulmonary condition such as asthma well before March 29, 2002, the effective filing date of Krause et al.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title XVIII of the United States Code and that willful false statements may jeopardize the validity of this Application for Patent or any patent issuing thereon.

Date: Dec. 16, 2010

Signed: 
Yi Wang